

The rules and regulations for establishing residency for tuition purposes are defined by the New Mexico Higher Education Department, which is authorized by the Constitution of the State of New Mexico and state statutes (Chapter 235, IE, NMSA 1971 and Section 21-1-4E NMSA 1978) to provide classification for a tuition differential between resident and non-resident students.

An individual must establish legal residency in New Mexico before he or she is entitled to pay in-state tuition rates. The requirements to establish residency for tuition purposes are independent from those of other types of residency such as voting or holding public office. A legal resident for tuition purposes is someone who meets the requirements set forth by this policy and described in this brochure.

These regulations for residency apply to all public post-secondary institutions in the State of New Mexico, including branches and community colleges.

Following are questions and answers that present the essence of the residency regulations and provide the information needed to establish residency for tuition purposes. The full policy is available at each institution.

1. Why are non-resident students at New Mexico’s educational institutions charged higher tuition than resident students?

New Mexico’s institutions of higher education are supported by the General Fund of the State of New Mexico. Since non-resident students (and their families) generally have not contributed to the support of public education in New Mexico, they are required to pay additional tuition which more closely represents the actual cost of their education.

2. What is required for residency for tuition purposes?

In general, a financially independent, adult person over 18 years of age must have resided in New Mexico for a period of 12 consecutive months immediately prior to the term for which the petition is being filed. Furthermore, “residency” in this context means legal “residence.” Legal residence requires intent to remain in a place indefinitely, in the sense of making one’s permanent home there, as well as physical presence at the place. The distinction is that one may have any number of residences at one time, but never more than one legal residence.

There are two types of education... One should teach us how to make a living, And the other how to live.
—John Adams

3. When is a student’s residency status determined?

The Admissions Office at each institution determines each student’s residency status when the completed application for admission is received and processed. The decision is based on the information contained in the application for admission, transcripts and other documents required for admission. The residence status determined at this time remains in effect until the student’s next July 1. If the student does not meet the requirements for residency

and petitions for resident tuition classification, or 2) loses residency by his/her absence from New Mexico or intends to become a resident of another state.

4. How is a minor student’s residency status determined?

In New Mexico, for most purposes, the age of majority is 18. Persons under the age of 18 are considered minors under the law. A minor’s residence is presumed to be the same as his/her parents’ or legal guardian’s. The residence decision for students under 18 is based upon the legal residence of the parents or legal guardian. In the event that a non-custodial parent is a legal resident of New Mexico, the minor student will be classified as a resident.

5. Can a minor establish residency separate from that of his parents or legal guardian?

Not usually. With the sole exception of automatic legal emancipation upon marriage, a minor is presumed to share his parents’ or legal guardian’s residence, unless the minor presents to the appropriate institution official written evidence sufficient to justify (as a conclusion of law) a finding of the minor’s emancipation. What this means is you must be 18 years old to begin to establish residency apart from your parents or guardian.

6. What is the residence of a student who becomes 18 after he/she has enrolled in a university or college?

Because of the presumption that a minor shares his/her parents’ or legal guardian’s residence and because of the 12 month physical presence requirement, the 18 year old student’s residence is the same as the parents’ until the student’s 19 birthday. Upon the student’s 19 birthday, the student is eligible to have established his/her separate legal residence. A non-resident student may then petition for residency based on his/her compliance with the residency regulations.

7. How does a person establish New Mexico residency?

To become a legal resident of New Mexico for tuition purposes, four basic requirements must be completed. Each person must meet the requirements individually.

- A. The 12 month Consecutive Presence Requirement. A person must physically reside in the state for 12 consecutive months immediately preceding the term for which classification is requested. NOTE: A student cannot begin to complete the 12 month requirement until his/her 18 birthday.
- B. The Financial Independence Requirement. Only persons who are financially independent may establish residency apart from parents or guardian regardless of age. A student cannot be approved for residency who is financially dependent upon his/her parents or legal guardian who are non-residents of New Mexico. Dependency will be determined according to the 1954 Internal Revenue Service Code, Section 152 and is always based on the previous tax year for residency purposes. If under the age of 23 at the time the student applies for residency, a copy of his/her parents’ or guardians’ 1040 or 1040A U.S. income tax form for the previous tax year is required. If the student is shown to be a dependent on this tax form, he/she will not be considered financially independent or eligible for residency during the current year.

20. Can a student who is classified as a resident lose resident status and be reclassified as a non-resident?

A student can lose resident status by: 1) acting to establish legal residence in another state or 2) a finding by the institution that resident status was granted on the basis of false or misleading information.

In the first situation, any resident student may forfeit resident status by acting in ways inconsistent with being a New Mexico resident (See Overt Acts, Section 7D.) or by being absent from the state for 12 continuous months. Intent and actions in support of intent are of greater importance than length of absence because of the principle that one does not surrender the old legal residence until new legal residence is acquired. For example, absences which are the result of attending an out-of-state school or active military service do not result in loss of residency so long as the student does not attempt to establish residency elsewhere.

For information or interpretation, contact the New Mexico Higher Education Department or the Admissions Office or Registrar’s Office at your institution. Following are the post-secondary institutions for which these regulations apply:

- Albuquerque Technical Vocational Institute
- Clovis Community College
- Eastern New Mexico University
 - Roswell Branch
 - Ruidoso Center
- Luna Community College
- Mesalands Community College
- New Mexico Highlands University
- New Mexico Institute of Mining and Technology
- New Mexico Junior College
- New Mexico Military Institute
- New Mexico State University
 - Alamogordo Branch
 - Carlsbad Branch
 - Dona Ana Branch
 - Grants Branch
- Northern New Mexico College
- San Juan College
- Santa Fe Community College
- University of New Mexico
 - Gallup Branch
 - Los Alamos Branch
 - Valencia Branch
 - Taos Branch
- Western New Mexico University

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ESTABLISHING NEW MEXICO
RESIDENCY *or* ELIGIBILITY
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STATE OF NEW MEXICO
HIGHER EDUCATION DEPARTMENT

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